

PATENT COOPERATION TREATY

Corrected Version

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

To:

see form PCT/ISA/220

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION:
See paragraph 2 below

International application No.
PCT/IB2005/050822

International filing date (day/month/year)
05.03.2005

Priority date (day/month/year)
08.03.2004

International Patent Classification (IPC) or both national classification and IPC
A61F5/00, B29C45/16

Applicant
ENDOART S.A.

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1b(s)(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

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WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

10/591869
IAP12 Rec'd PCT/PTO 06 SEP 2006
International application No.
PCT/IB2005/050822

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ in written format
 - ☐ in computer readable form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

Box No. II Priority

1. ☒ The validity of the priority claim has not been considered because the International Searching Authority does not have in its possession a copy of the earlier application whose priority has been claimed or, where required, a translation of that earlier application. This opinion has nevertheless been established on the assumption that the relevant date (Rules 43bis.1 and 64.1) is the claimed priority date.
2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.
3. Additional observations, if necessary:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/IB2005/050822

Box No. V Reasoned statement under Rule 43b/s.1(a)(I) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-6
	No: Claims	
Inventive step (IS)	Yes: Claims	1-6
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-6
	No: Claims	

2. Citations and explanations

see separate sheet

Re Item V.

- 1 Reference is made to the following document:

D1 : WO.03/059215 A

- 2 Document D1, which is considered to represent the most relevant state of the art and which is cited in the description on page 1, discloses (the references in parentheses applying to this document):

a surgically implantable adjustment ring (1) comprising first (3) and second (4) end parts and which is designed to be closed around a tubular organ towards its two end parts by a closure system (5, 6) to adjust the diameter of said tubular organ by forming a loop, the first end part (3) forming a sleeve having first and second open end parts and which is designed to receive the ring second end part (4), the sleeve main axis being defined along a direction which is substantially perpendicular to the main direction of the ring first end part (3), the ring second end part (4) furthermore comprising a locking protrusion (6A) adapted to hold the sleeve (3) and thereby secure the ring in a closed position (see figures 1-3).

From this, the subject-matter of independent claim 1 differs in that:
the sleeve comprises a hole designed to receive said locking protrusion.

- 2.1 The subject-matter of claim 1 is therefore novel (Article 33(2) PCT).
The problem to be solved by the present invention may be regarded as:
how to improve the closure system of a surgically implantable adjustment ring.
- 2.2 The solution to this problem proposed in claim 1 of the present application is considered as involving an inventive step (Article 33(3) PCT) since the available prior art does not show or suggest including a hole in the sleeve to receive the locking protrusion.
- 2.3 Claims 2-6 are dependent on claim 1 and as such also meet the requirements of the PCT with respect to novelty and inventive step.

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)**

International application No.

PCT/IB2005/050822